

49.854 Liens against property for delinquent support payments.

1) DEFINITIONS.

In this section:

- (a) "Department" means the department of workforce development.
- (b) "County child support agency" means the county child support agency under s. 59.53 (5).
- (c) "Levy" means all powers of distraint and seizure.
- (d) "Obligor" means a person who is obligated to pay court-ordered support.
- (e) "Property" includes accounts at financial institutions, personal property and real property, tangible and intangible property and rights to property, but is limited to property and rights of the obligor to property existing at the time of levy.
- (f) "Support" means any of the following:
 - 1. Child or family support.
 - 2. Maintenance.
 - 3. Medical expenses of a child.
 - 4. Birth expenses.
 - 5. Any accrued interest on delinquent amounts under subds. to 4.

2) CREATION OF LIEN; SATISFACTION.

(a) *Creation.* If a person obligated to pay support fails to pay any court-ordered amount of support, that amount becomes a lien in favor of the department upon all property of the person. The lien becomes effective when the information is entered in the statewide support lien docket under par. (b) and that docket is delivered to the register of deeds in the county where the property is located. A lien created under this paragraph is not effective against a good-faith purchaser of titled personal property, unless the lien is recorded on that title.

(b) *Statewide support lien docket.* The department shall maintain a copy of the statewide support lien docket to the register of deeds and the county child support agency of each county in this state, and to each state agency that titles personal property. Each entry in the statewide support lien docket shall contain the name and the social security number of the obligor and the date that the lien is entered in the docket, as well as the amount of the lien as of the time that the entry is made.

(c) *Updating the statewide support lien docket.* The department shall update the statewide support lien docket in response to orders issued by a court or family court commissioner. The department shall periodically update the statewide support lien docket to reflect changes in the amounts of the liens contained in the docket.

(d) *Amount of lien; satisfaction.* The amount of any support obligation that is a lien under this subsection may be determined by requesting that information from the county child support agency or the register of deeds, as specified by the department. Payment of the full amount that is delinquent at the time of payment to that county child support agency extinguishes that lien. Upon request, the county child support agency shall furnish to the payer of the delinquent amount a satisfaction of lien showing that the amount of support owed has been paid in full and that the person no longer owes the delinquent amount. The satisfaction of lien may be recorded in the office of the register of deeds for any county in which real or personal property of the person who owed the support is located.

(e) *Date that support lien docket is operational.* The department shall publish a notice in the Wisconsin Administrative Register that states the date on which the statewide support lien docket is first operational. The department shall publish the notice stating the date as soon as possible after the statewide support lien docket begins operating or, if the department is able to determine with certainty the date on which the statewide support lien docket will begin operating, as soon as possible after the department determines that date.

NOTE: Par. (e) is repealed eff. the date stated in the notice published by the Department of Workforce Development in the Wisconsin Administrative Register under s. 49.854 (2) (e) by 1999 Wis. Act 9.

3) NOTIFICATION AND APPEAL OF LIEN.

Notice. When a delinquent support obligation is included in the statewide support lien docket, the department shall provide notice to the obligor that a lien exists with respect to the delinquent support obligation. The notice shall include the amount of the delinquent child support obligation and shall inform the obligor that the lien is in effect. The notice shall inform the obligor of the obligor's right to request a financial records and court order review under par. (ag) and the obligor's right to request a court hearing under par.b

(ar). The notice under this paragraph shall also inform the obligor that the department will not take actions to enforce the lien if the obligor pays the delinquent amount in full or makes satisfactory alternative payment arrangements with the department or a county child support agency. The notice shall inform the individual of how he or she may pay the delinquent amount or make satisfactory alternative payment arrangements.

(ag) *Financial records and court order review.*

1. Within 10 business days of the date of the notice under par. (a), the obligor may file a written request for a financial records and court order review with the county child support agency. If the obligor makes a timely request for a financial records and court order review under this paragraph, the department shall hold the review as soon as practicable, but in no event to exceed 60 days after the date of the request. The department shall conduct the financial records and court order review at no charge to the obligor. As soon as practicable after conducting the financial records and court order review, the department shall make a determination regarding whether the amount of the delinquency contained in the notice is correct and shall provide a copy of the determination to the obligor. If the department determines that the amount of the delinquency is incorrect, the department shall take appropriate actions to correct the inaccuracy. The notice of the determination shall include information regarding the obligor's right to request a review of the determination under subd. 2.

2. If the obligor disagrees with the determination of the department, the obligor may request a hearing with the court or a family court commissioner to review the department's determination. To request a hearing under this subdivision, the obligor shall make the request within 5 business days of the date of the department's determination under subd. 1. The obligor shall make the request in writing and shall mail or deliver a copy of the request to the county child support agency. If a timely request for a hearing is made under this subdivision, the court or family court commissioner shall hold the hearing within 15 business days of the request. If, at the hearing, the obligor establishes that the lien is not proper because of a mistake of fact, the court or family court commissioner shall order the department to remove the lien from the statewide support lien docket or adjust the amount of the delinquent obligation.

(ar) *Direct appeal.* If the obligor has not requested a financial records and court order review under par. (ag), the obligor may request a hearing under this paragraph within 20 business days of the date of the notice under par. (a). The obligor shall make the request in writing and shall mail or deliver a copy of the request to the county child support agency. If a timely request for a hearing is made under this paragraph, the court or family court commissioner shall schedule a hearing within 10 days after the date of the request. If, at the hearing, the obligor establishes that the lien is not proper because of a mistake of fact, the court or family court commissioner shall order the department to remove the lien from the statewide support lien docket or adjust the amount of the delinquent obligation.

(b) *Appeal.* If a family court commissioner conducts a hearing under par. (ag) or (ar), the department or the obligor may, within 15 business days after the date of the decision by the family court commissioner, request review of the decision by the court having jurisdiction over the action. The court conducting the review may order that the lien be withdrawn from the statewide support lien dockets or may order an adjustment of the amount of the delinquent obligation. If no appeal is sought or if the court does not order the withdrawal of the lien, the department may take appropriate actions to enforce the lien.

4) POWERS OF LEVY AND DISTRAINT GENERALLY.

If any obligor neglects or refuses to pay the support owed by the obligor after the department has made demand for payment, the department may collect that support and the levy fees and costs under sub. (11) by levy upon any property belonging to the obligor as provided in subs. (5) to (7). Whenever the value of any property that has been levied upon under this subsection is not sufficient to satisfy the claim of the department, the department may levy upon any additional property of the obligor until the support owed and levy costs are fully paid.

5) LEVYING AGAINST FINANCIAL ACCOUNTS.

(a) *Definitions.*

In this subsection:

1. "Account" has the meaning given in s. 49.853 (1) (a).
2. "Financial institution" has the meaning given in s. 49.853 (1) (c).

(b) *Notice to the financial institution.* To enforce a lien under this section by levying against an account at a financial institution, the department shall send a notice of levy to the financial institution instructing the financial institution to prohibit the closing of or withdrawals from one or more accounts that the obligor owns in whole or in part, up to a total amount that is sufficient to pay the support owed, financial institution fees under par. (e) and estimated levy fees and costs under sub. (11), until further notice from the department or a court. The financial institution shall comply with the notice of levy and shall hold the amount specified in the notice until the financial institution receives further instructions from the department or a court.

(d) *Notice to the obligor and certain others.* No later than the next business day after the department sends notice of levy to the financial institution under par. (b), the department shall send a copy of the notice of levy to the obligor. The department shall also send a copy of the notice of levy to any other person who has an ownership interest in the account. The notices required under this paragraph shall be in the form determined by the department, however the notice shall include language stating all of the following:

1. That the obligor has been certified as delinquent in paying support.

2. The amount of the support owed.
3. The financial institution to which the department sent the notice under par. (b).
4. That one or more accounts owned in whole or in part by the obligor at the financial institution have been frozen, up to a total amount that is sufficient pay the support owed, the department's levy costs and financial institution fees.
6. That the obligor may request a hearing within 20 business days after the date of the notice, by submitting the request in writing and by mailing or delivering a copy of the request to the county child support agency.
- 6m. That a person, other than the obligor, who holds the account jointly with the obligor may request a hearing within 20 business days after the date of the notice, to protect the portion of the jointly held account that is attributable to his or her net contributions to the jointly held account.
7. The address to which the request for hearing must be mailed or delivered in order to schedule a hearing.

(e) *Financial institution fees.* A financial institution may continue to collect fees, under the terms of the account agreement, on accounts frozen under this subsection. In addition to the levy fee authorized under sub. (11) (a), a financial institution may collect any early withdrawal penalty incurred under the terms of an account as a result of the levy. Financial institution fees authorized under this paragraph may be charged to the account immediately prior to the remittance of the amount to the department and may be charged even if the amounts in the obligor's accounts are insufficient to pay the total amount of support owed and the department's levy costs under sub. (11) (b).

(f) *Hearings.* A hearing requested under par. (d) 6. shall be conducted before the circuit court rendering the order to pay sup-port. Within 45 business days after receiving a request for hearing under par. (d) 6., the court shall conduct the hearing. The family court commissioner may conduct the hearing. The hearing shall be limited to a review of whether the account holder owes the amount of support certified and whether any alternative payment arrangement offered by the department or the county child support agency is reasonable. If the court or family court commissioner makes a written determination that an alternative payment arrangement offered by the department or county child support agency is not reasonable, the court or family court commissioner may order an alternative payment arrangement. If the court or family court commissioner orders an alternative payment arrangement, the court or family court commissioner shall order the department to release all or a portion of the funds. If the court or family court commissioner determines that the account holder does not owe support or owes less than the amount claimed by the department, the court shall order the department to return the seized funds or the excess of the seized funds over the amount of the delinquency to the account holder. If a family court commissioner conducts the hearing under this paragraph, the department or the obligor may, within 15 business days after the date that the family court commissioner makes his or her decision, request review of the decision by the court with jurisdiction over the action.

(6) LEVYING AGAINST OTHER PERSONAL PROPERTY.

(a) *When notice of seizure required.*

If the department has enforced a lien under this section by levying against personal property, the department shall immediately notify the obligor that the property has been seized. The department shall provide the notice of seizure under this paragraph to any person having an ownership interest in the property or any other person with an interest of record in the property. If the property is titled, the department shall also send a copy of the notice of seizure to the state

agency that titles the property. A state agency receiving a notice under this paragraph may not transfer title to the personal property described in the notice, except on the instructions of a court or the department.

(b) Content of notice of seizure

The notice provided under par. (a) shall include all of the following:

1. The name of the obligor and the amount of the support owed.
2. A description of the personal property seized.
3. A statement that the obligor may, within 20 business days after the date of the notice, request a hearing on the questions of whether past-due support is owed and whether the property was wrongfully seized.
- 3m. A statement that a person, other than the obligor, who holds the personal property jointly with the obligor may request a hearing within 20 business days after the date of the notice, to protect the portion of the jointly held personal property that is attributable to his or her net contributions to the jointly held personal property.
4. A statement that the hearing may be requested by submitting the request in writing and by mailing or delivering a copy of the request to the county child support agency.

(c) Hearing. If a hearing is requested under par. (b) 4., the court or family court commissioner shall schedule a hearing within 10 business days after receiving the request under par. (b) 4. The hearing shall be limited to a review of whether the obligor owes the amount of support owed that is stated in the notice of seizure and whether any alternative payment arrangement offered by the department or the county child support agency is reasonable. If the court or family court commissioner makes a written determination that an alternative payment arrangement offered by the department or county child support agency is not reasonable, the court or family court commissioner may order an alternative payment arrangement. If the court or family court commissioner orders an alternative payment arrangement, the court or family court commissioner shall order the department to return the seized property within 15 business days. If the court or family court commissioner determines that the obligor does not owe support or owes less than the amount claimed by the department, the court shall order the department to return the seized property within 15 business days or specify the amount which may be retained by the department after the sale of the seized property. If a family court commissioner conducts the hearing under this paragraph, the department or the obligor may, within 15 business days after the date that the family court commissioner makes his or her decision, request review of the decision by the court with jurisdiction over the action. The court reviewing the decision may order the department to return the seized property or may authorize the sale of the property by the department. If the department is ordered to return seized property under this paragraph, the court shall instruct any state agency responsible for titling the property that it may transfer title to the property without receiving instructions from a court or the department under par. (a).

(d) Notice of sale. As soon as practicable after seizing the personal property and after any requested hearings are conducted under par. (c), the department shall send a notice to the obligor stating that the department intends to issue an execution requiring the sheriff to sell the property within 90 days of the date of the execution. The final notice shall include a notice of the obligor's right to redeem the property under par. (e) 8.

(e) *Execution and sale.* After the department has sent the notice under par. (d), the department may issue an execution on any personal property identified in the notice to enforce a lien contained in the statewide support lien docket. The department shall provide a copy of an execution under this paragraph to the obligor and to any other person having an interest in the property. The provisions of ch. 815 apply to the executions issued by the department, except as follows:

1. References to judgments shall be read as references to liens entered in the statewide support lien docket, references to debtors shall be read as references to obligors and references to the court or a judge shall be read as references to the department.
2. Sections 815.01 to 815.04 do not apply. The department may not issue an execution more than 5 years after the date on which the lien was entered in the statewide support lien docket.
3. Section 815.05 does not apply. If the department has delegated under sub. (17) its authority under this subsection, the execution that is initiating the property seizure on behalf of the department. The execution shall include all of the following information:
 - a. The date that a lien against the obligor was first entered on the child support lien docket.
 - b. The amount of past due child support that is owed at the time the execution is issued.
 - c. A description of the personal property.
 - d. A directive to the officer to whom the execution is addressed to sell the property within 90 days of the date of the execution.
4. The execution shall be made returnable under s. 815.06 to the department within 90 days, rather than 60 days, after its receipt by the officer.
5. Sections 815.07, 815.09 to 815.12, 815.14, 815.15, 815.18 to 815.21, 815.25 and 815.26 do not apply.
6. Notwithstanding s. 815.29, the officer may not sell the personal property without 20 days advance notice. In addition to the notice required under s. 815.29, the officer to whom the execution is issued shall notify the obligor of the time and place of the sale of the personal property.
7. If, prior to the sale of the personal property, the department or child support agency notifies the officer that the obligor has paid the amount owed together with any levy fees and costs under sub. (11) or that the custodial parent to whom the support is owed has died, the officer shall discontinue the execution.
8. Sections 815.52 to 815.55 do not apply. The obligor may redeem the property prior to the date of the sale by payment of the full amount of support owed together with any levy fees and costs under sub. (11). The property may not be redeemed after it is sold. If the property is redeemed, the county child support agency shall issue a certificate upon redemption that includes the date of redemption, the amount of money paid and a description of the property redeemed. The certificate of redemption may be recorded in the office of the register of deeds. If titled property is redeemed, the department shall instruct the titling agency that the agency may transfer title to the property without receiving instructions from a court or the department under par. (a). Upon the sale of personal property on execution, the officer shall issue a certificate of sale to the purchaser within 10 days of the sale. If titled property is sold, the department shall instruct the titling agency to transfer title of the sold property to the purchaser.

(f) *Updating the lien docket.* The department shall update the statewide support lien docket to remove a lien that is satisfied by an execution or sale under this subsection.

(7) LEVYING AGAINST REAL PROPERTY.

(a) *When notice of intent to levy required.* To enforce a lien under this section by levying against real property, the department shall provide the obligor and all owners of the real property with a notice of intent to levy under par. (b) 1. A copy of the notice under par. (b) 1. shall be provided to the register of deeds in the county where the real property is located. A register of deeds receiving a notice of intent to levy under this paragraph shall file the notice of intent to levy. The department shall provide a notice of intent to levy under par.(b) 2. to any person having an interest of record in the real property

(b) *Content of notice of intent.*

1. The notice provided under par. (a) to the obligor, to owners of the property and to the register of deeds shall include all of the following:

- a. The name of the obligor and the amount of the support owed.
- b. A description of the real property against which the department intends to levy.
- c. A statement that the obligor may, within 20 business days after the date of the notice, request a hearing on the question of whether past-due support is owed.
- d. A statement that a person, other than the obligor, who holds the real property jointly with the obligor may request a hearing within 20 business days after the date of the notice, to protect the portion of the jointly held real property that is attributable to his or her net contributions to the jointly held real property.
- e. A statement that the hearing may be requested by submitting the request in writing and by mailing or delivering a copy of the request to the county child support agency.

2. In addition to the information included under subd. 1. a. to c., the notice provided under par. (a) to a person having an interest of record in the real property shall include a request that the interest holder notify the department, within 10 business days after receiving the notice, of the amount and nature of the person's interest in the property.

(c) *Hearing.* If a hearing is requested under par. (b) 1. c., the court or family court commissioner shall schedule a hearing within 10 business days after receiving the request under par. (b) 1. c. The hearing shall be limited to a review of whether the obligor owes the amount of support owed that is stated in the notice of intent under par. (b) and whether any alternative payment arrangement offered by the department or the county child support agency is reasonable. If the court or family court commissioner makes a written determination that an alternative payment arrangement offered by the department or county child support agency is not reasonable, the court or family court commissioner may order an alternative payment arrangement. If the court or family court commissioner orders an alternative payment arrangement, the court or family court commissioner shall order the department not to proceed with the levy. If the court or family court commissioner determines that the obligor does not owe support or owes less than the amount claimed by the department, the court shall order the department not to proceed with the levy or specify the amount that may be retained by the department after the sale of the seized property. If a family court commissioner conducts the hearing under this paragraph, the department or the obligor may, within 15 business days after the date that the family court commissioner makes his or her decision, request review of the decision by the court with jurisdiction over the action. The court reviewing the decision may order the department not to proceed with the levy of the property or may authorize the sale of the property by the department.

(d) *Final notice.* Unless the department has been directed not to proceed with the levy in a hearing under par. (c) or unless the support owed and any levy fees and costs under sub. (11) have been paid, the department may send to the obligor a final notice of intent to seize and sell the property. The final notice may not be sent until 20 business days after the date of the notice of intent to levy under par. (a) or after any requested hearings under par. (c) have been completed. The final notice shall state that the department intends to issue an execution requiring the sheriff to seize and sell the property within 90 days of the date of the execution and that the obligor must vacate the property by the time of sale. The final notice shall include a notice of the obligor's right to redeem the property under par. (e) 8. The department shall provide a copy of any final notice under this paragraph to the register of deeds in the county where the real property is located. A register of deeds receiving a final notice under this paragraph shall file the final notice.

(e) *Execution and sale.* After the department has sent the final notice under par. (d), the department may issue an execution on any real property identified in the notice to enforce a lien contained in the statewide support lien docket. The department shall provide a copy of an execution under this paragraph to the obligor and to any other person having an interest in the property. The provisions of ch. 815 apply to the executions issued by the department, except as follows:

1. References to judgments shall be read as references to liens entered in the statewide support lien docket, references to debtors shall be read as references to obligors and references to the court or a judge shall be read as references to the department.
2. Sections 815.01 to 815.04 do not apply. The department may not issue an execution more than 5 years after the date on which the lien was entered in the statewide support lien docket.
3. Section 815.05 does not apply. If the department has delegated under sub. (17) its authority under this subsection, the execution shall be signed by the director of the child support agency that is initiating the real property seizure on behalf of the department. The execution shall include all of the following information:
 - a. The date that a lien against the obligor was first entered on the child support lien docket.
 - b. The amount of past due child support that is owed at the time the execution is issued.
 - c. A legal description of the property against which the lien is to be executed. Including the location, of the property against which the lien is to be executed.
 - d. The street address or location of the property against which the lien is to be executed.
 - e. A directive to the officer to whom the execution is addressed to seize and sell the property within 90 days of the date of the execution.
4. The execution shall be made returnable under s. 815.06 to the department within 90 days, rather than 60 days, after its receipt by the officer.
5. Sections 815.07, 815.09 to 815.12, 815.14, 815.15, 815.18 to 815.21, 815.25 and 815.26 do not apply.
6. In addition to the notice required under s. 815.31, the officer to whom the execution is issued shall notify the obligor of the time and place of the sale of the real property.
7. If, prior to the sale of the real property, the department or child support agency notifies the officer that the obligor has paid the amount owed together with any levy fees and costs under sub. (11) or that the custodial parent to whom the support is owed has died, the officer shall discontinue the execution.
8. Sections 815.38 to 815.55 do not apply. The obligor may redeem the property prior to the date of the sale by payment of the full amount of support owed together with any levy

fees and costs under sub. (11). The property may not be redeemed after it is sold. If the property is redeemed, the county child support agency shall issue a certificate upon redemption that includes the date of redemption, the amount of money paid and a description of the property redeemed. The certificate of redemption may be recorded in the office of the register of deeds. Upon the sale of the real estate on execution, the officer shall issue a deed and a certificate of sale to the purchaser within 10 days of the sale.

9. The department may issue an administrative order directing a local law official to remove the obligor from the property if property is not vacated before the time of sale. A person occupying the property under claim of ownership, lease or month-to-month tenancy may not be removed except by proceedings under ch. 799 or 843.

10. Sections 815.59 to 815.64 do not apply.

(f) *Updating the lien docket.* The department shall update the statewide support lien docket to remove a lien that is satisfied by an execution or sale under this subsection.

(7m) JOINTLY HELD PROPERTY.

A person, other than the obligor, who holds a joint interest in property levied against under this section may request a hearing, as provided in subs. (5) (d) 6m., (6) (b) 3m. or (7) (b) 1. d., to determine the proportion of the value of the property that is attributable to his or her net contribution to the property. If a hearing is requested under this subsection, the court or family court commissioner shall schedule a hearing within 10 days after receiving the request. The hearing shall be limited to determining the proportion of the value of the property that is attributable to the person's net contribution to the property. If more than one person requests a hearing under this subsection, or if the obligor requests a hearing under sub. (5) (f), (6) (c) or (7) (c), with respect to the same property, the court or family court commissioner may schedule the hearings together. The person requesting the hearing shall have the burden of proving his or her net contribution by clear and convincing evidence. If the court determines that a portion of the jointly held property is attributable to the contributions of the person, the court shall direct the department or the county child support agency to pay the person, from the net balance of the jointly held account or the net proceeds of the sale of the jointly held real or personal property, the proportion of the gross value of the account or real or personal property that is attributable to that person. If the family court commissioner conducts the hearing under this subsection, the person may, within 15 business days after the date that the family court commissioner makes his or her decision, request review of the decision by the court with jurisdiction over the action.

(8) DUTIES TO SURRENDER; GENERALLY.

Any person in possession of or obligated with respect to property or rights to property that is subject to levy under this section and upon which a levy has been made shall, upon demand of the department, surrender the property or rights or discharge the obligation to the department, except that part of the property or rights that is, at the time of the demand, subject to any prior attachment, execution under any judicial process, claim of ownership, lease or month-to-month tenancy.

(9) NOTICE. Any notice required to be provided under this section may be provided by sending the notice by regular mail to the last-known address of the person to whom notice is to be sent.

(11) LEVY FEES AND COSTS.

- (a) *Third parties.* Any 3rd party is entitled to a levy fee of \$5 for each levy in any case where property is secured through the levy. The 3rd party shall deduct the fee from the proceeds of the levy.
- (b) *The department.* The department may assess a collection fee to recover the department's costs incurred in levying against property under this section. The department shall determine its costs to be paid in all cases of levy. The obligor is liable to the department for the amount of the collection fee authorized under this paragraph. Fees collected under this paragraph shall be credited to the appropriation account under s. 20.445 (1) (L).

(12) PRIORITIES AND USE OF PROCEEDS.

- (a) *Priorities.* A lien under this section has the same priority, from the date that the lien is effective, as a judgment docketed under s. 806.15. The lien is effective for a period of 5 years from the date the lien becomes effective.
- (b) *Use of proceeds.* After paying any liens on a property that have priority over a lien under this section, the department shall apply all proceeds from a sale of that property under this section first against the support in respect to which the levy was made and then against levy fees and costs under sub. (11).
- (c) *Refunds or credits.* The department may refund or credit any amount left after the applications under par. (a), upon submission of a claim therefor and satisfactory proof of the claim, to the person entitled to that amount.

(13) RELEASE OF LEVY; SUSPENSION OF PROCEEDINGS TO ENFORCE LIEN.

- (a) *Release.* The department may release the levy upon all or part of property levied upon to facilitate the collection of the liability or to grant relief from a wrongful levy, but that release does not prevent any later levy.
- (b) *Settlement.* If the obligor enters in to an alternative payment arrangement in accordance with guidelines established under s. 49.858 (2) (a), the department shall suspend all actions to enforce a lien under this section as long as the obligor remains in compliance with the alternative payment arrangement.

(14) WRONGFUL LEVY. If the department determines that property has been wrongfully levied upon, the department shall return the property or, if the property has been sold, shall return an amount of money equal to the amount of money, or value of the property, levied upon. This subsection does not prevent a person whose property has been wrongfully levied upon from seeking relief, under other provisions of the statutes, against the state for damages that have not been compensated for under this subsection.

(15) ACTIONS AGAINST THIS STATE.

(a) *Commencement of actions.* If the department has levied upon property, any person, other than the obligor who is liable to pay the support out of which the levy arose, who claims an interest in or lien on that property and claims that that property was wrongfully levied upon may bring a civil action against the state in the circuit court for Dane County. If the county child support agency has levied upon property pursuant to delegated authority under sub. (17), any person, other than the obligor who is liable to pay the support out of which the levy arose, who claims an interest in or lien on that property and claims that that property was wrongfully levied upon may bring a civil action against the county child support agency in the circuit court for the county where the court order for the payment of support, upon which the seizure is based, was first entered or last modified. That action may be brought whether or not that property has been surrendered to the department or the county child support agency. The court may grant only the relief under par. (b). No other action to question the validity of or restrain or enjoin a levy by the department or a county child support agency may be maintained.

(b) *Remedies.* In an action under par. (a), prior to the sale of the property, if the court determines that property has been improperly levied upon, the court may enjoin the enforcement of the levy and order the return of the property, or may grant a judgment for the amount of money obtained by levy. The court may also order relief necessary to protect the interests of owners of the property, other than the obligor, including, when appropriate, partition of the property. After the sale of the property, if the court determines that the property has been wrongfully levied upon, it may grant a judgment for the amount of money obtained by levy.

(c) *Validity of determination.* For purposes of an adjudication under this subsection, there is a rebuttable presumption that the support obligation upon which the lien is based is valid.

(17) DELEGATION AND POWER TO CONTRACT.

The department may delegate any duties or powers given to the department under this section to county child support agencies, except that the department must approve the initiation of any levy proceedings under sub. (7). The department shall promulgate rules prohibiting a county child support agency from using the powers delegated under this subsection to enforce a child support lien, if the value of the property that is subject to the lien is below the dollar amount specified in the rules.

(18) PRESERVATION OF REMEDIES.

The availability of the remedies under this section does not abridge the right of the department to pursue other remedies.

History: 1997 a. 191; 1999 a. 9.

The Child Support Lien Docket. Chesnik & Petersen. Wis. Law. June 2001.